

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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AMERICAN EMPIRE SURPLUS LINES	:
INSURANCE COMPANY,	:
	:
Plaintiff,	:
	:
v.	:
	:
JOSEPH & SON RESTORATION INC.,	:
<i>et al.</i> ,	:
	:
Defendants.	:
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ORDER
20-CV-1897 (WFK) (CLP)

WILLIAM F. KUNTZ, II, United States District Judge:

On March 1, 2022, Magistrate Judge Cheryl L. Pollak entered a Report and Recommendation (“R&R”) stating in part:

The default motion does not seek damages, but requests only that “this Court enter a default judgment against Rivera and Ballinas, in connection with the declaratory judgment sought against Joseph with respect to coverage under the American Empire Policies.” (Myers Aff. at 6; *see also* Proposed Ord. at 1-2). However, because Judge Kuntz adopted this Court’s Report and Recommendation denying declaratory relief without prejudice against Joseph, and plaintiff’s request relief in connection with this default judgment motion essentially seeks the same relief – namely, that American Empire has no duty to defend or indemnify – the Court respectfully recommends that the motion for default judgment also be denied at this time, without prejudice.

The parties have not filed any objections to the R&R, which were due March 15, 2022.

See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(2). The Court reviews a magistrate judge’s R&R for clear error when no objections have been filed. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007) (Garaufis, J.). Finding none here, the Court ADOPTS the R&R in its entirety and DENIES Plaintiff’s motion for default judgment without prejudice.

SO ORDERED.


s/ WFK

HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: March 21, 2022
Brooklyn, New York